

**RECESSED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING
APPEALS**

December 7, 2000

The Fauquier County Board of Zoning Appeals continued the recessed meeting on Thursday, December 7, 2000, at 1:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Rider, Chairman; Mr. James Van Luven, Mr. Eugene Lofdahl, Dr. James Branscome, Mrs. Peg Mailler, and Mr. John Meadows. Also present were Mrs. Carolyn G. Bowen, Zoning Administrator; Mr. Paul McCulla, County Attorney; and Mrs. Beverly Pullen, Office Associate. The member absent was William Barr.

CLOSED MEETING

On the motion made by Mr. Meadows, and seconded by Mr. Van Luven, and pursuant to §2.1-344 (a)(7) of the Code of Virginia, it was moved to go into Closed Meeting for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to Appeal #46407 Lynn A. Pirozzoli.

The motion carried unanimously.

The Fauquier County Board of Zoning Appeals, having adjourned into Closed Meeting this day for the purposes stated in the resolution authorizing such Session, does hereby certify that to the best of each member's knowledge (I) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (II) only such public business matters as were identified in the motion by which the Closed Meeting was convened, were heard, discussed or considered in the Closed Meeting.

AYES: Dr. Branscome, Mr. Rider, Mrs. Mailler, Mr. Lofdahl, Mr. Meadows and Mr. Van Luven.

NAYS: None

ABSTENTION: None

ABSENT: Mr. Barr

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

December 7, 2000

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, December 7, 2000, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Rider, Chairman; Mrs. Peg Mailler, Mr. John Meadows, Mr. Eugene Lofdahl, Dr. James Branscome and Mr. James VanLuven. Also present were Mr. Paul McCulla, County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator; Ms. Holly Meade, Zoning Planner; Mr. Doug Morgan, Senior Planner; and Mrs. Beverly Pullen, Office Associate. Mr. William Barr was absent.

LETTERS OF NOTIFICATIONS

PUBLIC NOTICE Mrs. Bowen stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners.

APPEAL #46407 LYNN A. PIROZZOLI (OWNER)

Applicant has filed an appeal of a determination made by the Zoning Administrator in a letter dated August 30, 2000. The subject property is identified as PIN #6993-15-3605-000, contains approximately 20.36 acres, is zoned Rural Agricultural (RA), and is located at 8393 Meetze Road (State Route 643), in Center District.

Mr. Fred Hodge stated that additional material had been received and was distributed to each member.

Mr. Rider acknowledged that the material had been reviewed and stated that Ms. Pirozzoli's counsel, Mr. Sevila, may address the BZA.

Mr. Sevila spoke regarding the memo in the file from Rick Carr dated November 20, 2000. He expressed concern with the measurement of 87 feet of the diameter of location "C" by Mr. Carr. He felt that it was his opinion, that Mr. Jim Carson, as an Engineer was more qualified to measure the diameter of the circle, and further stated he felt this measurement is important with regard to this appeal. He asked Mr. Carson for his measurement of the diameter of the circle, and Mr. Carson replied that it is 78 feet.

Mr. Carson asked if he may speak regarding this issue and Mr. Rider stated that he could.

Mr. Carson stated that he has checked and verified the measurement five times, using three different methods, and he feels that county is not correct in their measurement. He further stated that he felt the largest building that would fit into the circle was a square building of 55 feet on each side.

Mr. Rider stated that the dimensions are important. He referenced the original plan as part of the application submitted on September 26, 1999 that provided setbacks of 145.9 feet from the property line to the edge of circle "C".

Mr. Carson stated that he believes that Mr. Fallon comments regarding setbacks were to only reference the circle as a general location. He further stated that he interpreted the condition as such when he was preparing the site plan.

Mr. Rider asked Mr. Carson that given the dimension, did he ever take into consideration that "x" number of feet was designated from the property line.

Mr. Carson stated that he put a dimension on the plan as he interpreted it, and that he stands by his opinion that this is a general location of the building and not specific. He further explained that the setbacks as shown on the plan were not intended to give exact setbacks, just to show the distance to the edge of the patio.

Mr. Rider asked Mr. Carson if he drew the original special exception plat as well as the proposed site plan.

Mr. Carson stated he did, but only used surveying standards, and did not imply the conditions. He stated that he felt the conditions were very vague and should be better defined. He stated that he felt there were no setback restrictions stated by the Board of Supervisors. He explained that the location as shown was designated due to the aesthetics and the location of the existing improvements.

Mr. Lofdahl asked Mr. Carson if he felt as the engineer, the structure could be located as much as 90% outside the circle, and Mr. Carson stated that he felt it could.

Mr. Rider asked Mr. Carson to confirm that the maximum square footage allowed for the building by the Board of Supervisors is 3,300 square feet, and Mr. Carson stated that he agreed.

Mr. Sevila stated that he appreciated the Board of Zoning Appeals allowing the opportunity to present additional material. He stated what he felt was the obligation of the Board of Zoning Appeals members in determining the outcome of this appeal.

Mr. Rider stated that he is fully aware of the obligation and responsibility of the BZA.

Mr. Sevila asked the BZA to consider staff incorrect in their interpretation.

Mr. Rick Carr stated that staff has indicated consistently that the applicant was to place the building within the circle and to conform to parameters of the circle.

Mr. Rider stated that he felt the circle was drawn to design and that the location is not conceptual, but very specific, and other factors make the location of circle "C" very precise.

Mrs. Bowen spoke regarding the affidavit submitted of Shirley Dean. She stated that during the meeting on September 20, 2000, the question was asked by Mr. Sevila as to whether the building could move up or down, and Mrs. Bowen responded that the building had to stay within the circle.

Mr. Meadows asked Mr. McCulla if the condition **was set forth by the Board of Supervisors** to be specific.

Mr. McCulla responded that the condition was intended to set limitations, so as to lessen the impact to the neighbors and to that extent conditions are intended to be specific. He stated that the problem with any condition is there may be ambiguities, and that the BZA is given the authority to interpret decisions and to determine whether the Board of Supervisors meant the condition to be specific or general. He stated that Mr. Carr believes the condition to be specific, and Mr. Carson and Mr. Sevila believe the condition to be general.

Mr. McCulla stated that it takes a majority of the BZA to overturn a decision on the appeal.

On the motion made by Mr. Meadows, and seconded by Mr. Lofdahl, it was moved to adopt the following resolution:

A RESOLUTION AFFIRMING THE DECISION OF THE FAUQUIER COUNTY ZONING
ADMINISTRATOR IN APPEAL #46407 BY LYNN PIROZZOLI

WHEREAS, Appellant, Lynn Pirozzoli, has appealed the decision of the Fauquier County Zoning Administrator to deny her Site Plan Application dated March 6, 2000 and revised July 21, 2000 for the Black Horse Inn based upon interpretations contained in the Zoning Administrator's denial letter of August 30, 2000, and

WHEREAS, the Board of Zoning Appeals has conducted appropriate proceedings on the said appeal, and

WHEREAS, the Appellant, by counsel, has objected to the inclusion of the written statements of Bruce A. Bugbee and Roberta J. Wagner dated October 19, 2000; Frederick P.D. Carr; and Denise Harris dated October 30, 2000 in the record of this proceeding is appropriate as the statements are not irrelevant, immaterial or prejudicial and that said statements shall be given such weight as the Board of Zoning Appeals shall deem appropriate; and

IT FURTHER APPEARING TO THE BOARD OF ZONING APPEALS that based upon both the written and verbal record before it that the decision of the Zoning Administrator to deny the Site Plan Application dated March 6, 2000 and revised July 21, 2000 for the Black Horse Inn based upon interpretations contained in the Zoning Administrator's denial letter of August 30, 2000 should be affirmed; now, therefore, be it

RESOLVED this 7th day of December, 2000 of the Fauquier County Board of Zoning Appeals That the Objections of the Appellant, Lynn Pirozzoli to the inclusion of the written

statements of Bruce A. Bugbee and Roberta J. Wagner dated October 19, 2000; Frederick P.D. Carr; and Denise Harris dated October 30, 2000 in the record of this proceeding be and are hereby denied; and, be it

FURTHER RESOLVED that after due notice and hearing as required by law and based upon both the written and verbal record before it in this appeal, the Board of Zoning Appeals does hereby AFFIRM the decision appealed from.

The resolution was adopted with a vote of 5-1, with Dr. Branscome opposing.

Mr. Rider moved to recess the meeting for five (5) minutes.

VARIANCE #46480 CLEVERS OAK BAPTIST CHURCH TRUSTEES (OWNER)

Applicant is requesting a variance to the front yard (setback) requirement for a vestibule addition to an existing church building. The proposed vestibule would be 43 feet from the centerline of Route 752 (Sillamon Road), wherein the Zoning Ordinance requires 75 feet. The subject property is identified as PIN #7825-65-9933-000, contains approximately .75 acre, zoned Rural Agricultural (RA), located at 13852 Sillamon Road, in Lee District.

Mr. Hodge stated that this variance is being requested for a vestibule addition and handicapped entrance to the existing church. He stated that the lot is non-conforming, and according to the Commissioner of Revenue's Office the existing church was built in approximately 1942. He stated that a site visit was conducted earlier in the day.

Mr. Charles Webster was present on behalf of Clevers Oak Baptist Church. He stated that the church needs a variance of 32 feet for the addition.

Mr. Rider asked Mr. Webster for the width of the ramp and the addition, and Mr. Webster responded that the vestibule addition is 5'9" x 13'8", and the handicapped ramp is 5'9"x 18'.

Mr. Rider asked if there was anyone present who wished to speak regarding this request.

No one spoke.

On the motion made by Dr. Branscome, and seconded by Mrs. Mailler, it was moved to grant variance #46480, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the size of the lot.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of:

(a) the exceptional size of the property at the time of the effective date of the Ordinance;

5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are due to the size of the lot.

6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.

7. The strict application of the Ordinance will produce undue hardship.

8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.

9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

10. The minimum variance that is necessary to afford relief is 32 feet.

The motion carried unanimously.

SPECIAL PERMIT #46564 HEARTS DELIGHT BAPTIST CHURCH TRUSTEES (OWNER)

Applicant is requesting special permit approval to replace an existing dining room with Sunday School classrooms, kitchen, and multi-purpose room. The subject property is identified as PIN #7849-93-5280-000, contains approximately 1.00 acre, zoned Rural Agricultural (RA), located at 11229 Brent Town Road (State Route 612), in Cedar Run District.

Mr. Hodge reviewed the staff report and stated that this lot is also non-conforming. He explained that the current building containing the existing dining hall is only 19.1 feet from the side property line. The proposed building will be much farther from the side property line.

Mr. Brian Morton was present on behalf of Hearts Delight Baptist Church. He explained that they need additional space and would like to expand the existing structure.

Mr. Rider asked if anyone was present that wished to speak regarding this request.

No one spoke.

On the motion made by Mrs. Mailler and seconded by Mr. Lofdahl, it was moved to grant special permit #46564, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning

Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.

3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-602 Additional Standards for Places of Worship

Uses proposed in conjunction with places of worship shall be subject to regulations applicable to such use (e.g., schools, athletic facilities).

The motion carried unanimously.

SPECIAL PERMIT #46570 JOHN H. AND ALICE M. ECKERT (OWNERS)

Applicants are requesting special permit approval to continue operating a small contracting business (electrical). BZA previously approved a special permit for this business on November 4, 1999 for one year. The applicants are now requesting the special permit with no time limitation. The subject property is identified as Pin #6070-42-3434-000, contains approximately 10.019 acres, zoned Rural Agricultural (RA), located at 4023 Whiting Road (State Route 622), in Scott District.

Mrs. Bowen stated that this case was withdrawn prior to the meeting.

MINUTES

The minutes of the November 2, 2000 meeting were approved as distributed.

OTHER MATTERS

Mrs. Bowen introduced a new staff member, Doug Morgan, who has joined our department as a Senior Planner.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at approximately 3:20 P.M.

William Rider, Chairman

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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